

PARTIES

4. The Plaintiffs, Mary Ellen Campanile (“Mary Ellen”) and Robert Campanile (“Robert” and together with Mary Ellen, “Plaintiffs”), are adult individuals residing in Rockland, Massachusetts, and are each a “consumer” as the term is defined by 15 U.S.C. § 1692a(3).

5. Defendant Diversified Collection Services, Inc. (“Diversified”), is a California business entity with an address of 333 North Canyons Parkway 100, Livermore, California 94551, operating as a collection agency, and is a “debt collector” as the term is defined by 15 U.S.C. § 1692a(6).

6. Does 1-10 (the “Collectors”) are individual collectors employed by Diversified and whose identities are currently unknown to the Plaintiffs. One or more of the Collectors may be joined as parties once their identities are disclosed through discovery.

7. Diversified at all times acted by and through one or more of the Collectors.

ALLEGATIONS APPLICABLE TO ALL COUNTS

A. The Debt

8. Robert allegedly incurred a financial obligation (the “Debt”) to a creditor (the “Creditor”).

9. The Debt arose from services provided by the Creditor which were primarily for family, personal or household purposes and which meets the definition of a “debt” under 15 U.S.C. § 1692a(5).

10. The Debt was purchased, assigned or transferred to Diversified for collection, or Diversified was employed by the Creditor to collect the Debt.

11. The Defendants attempted to collect the Debt and, as such, engaged in “communications” as defined in 15 U.S.C. § 1692a(2).

B. Diversified Engages in Harassment and Abusive Tactics

12. Within the last year, Diversified contacted Plaintiffs in an attempt to collect the Debt.

13. Robert informed Diversified that his mother Mary Ellen would be handling all matters related to the Debt and requested that Diversified cease all contact with him.

14. Nonetheless, Diversified continued placing calls to Plaintiff's cellular phone line.

15. Moreover, in May, 2012, Diversified called Robert's place of employment and left a message with Robert's co-worker mentioning the existence of the Debt. Diversified also mentioned that "further action" would be taken against Robert and that his wages would be garnished if he failed to pay the Debt.

16. Diversified also contacted Robert's uncles, Raymond and Joseph Campanile, and Robert's grandfather, George White, and disclosed that Robert owed a debt despite knowing Robert's contact information.

17. On one occasion, when Diversified called Plaintiff's house phone line, Robert's sister picked up the phone and informed Diversified that Robert was not home yet.

18. In addition, Diversified barraged Plaintiffs with numerous calls by placing approximately 40 calls in one day.

19. Furthermore, Diversified placed up to four calls a day, every day, to Mary Ellen's cellular phone line and her place of employment in an attempt to collect the Debt.

20. On many occasions Mary Ellen demanded that Diversified cease calling her job and her cellular phone line and only contact her at her residential phone line.

21. Nonetheless, Diversified continued to call Mary Ellen's cell and work phone lines.

22. During one of the phone calls Diversified disclosed to Mary Ellen's co-worker that the call was related to Mary Ellen's son's debt.

23. Diversified failed to inform Robert of his rights under the state and federal laws by written correspondence within 5 days after the initial communication, including the right to dispute the Debt.

C. Plaintiffs Suffered Actual Damages

24. The Plaintiffs has suffered and continue to suffer actual damages as a result of the Defendants' unlawful conduct.

25. As a direct consequence of the Defendants' acts, practices and conduct, the Plaintiffs suffered and continue to suffer from humiliation, anger, anxiety, emotional distress, fear, frustration and embarrassment.

26. The Defendants' conduct was so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community.

COUNT I
VIOLATIONS OF THE FDCPA 15 U.S.C. § 1692, et seq.

27. The Plaintiffs incorporate by reference all of the above paragraphs of this Complaint as though fully stated herein.

28. The Defendants' conduct violated 15 U.S.C. § 1692b(1) in that Defendants contacted third parties for purposes other than to confirm or correct location information.

29. The Defendants' conduct violated 15 U.S.C. § 1692b(2) in that Defendants informed third parties of the nature of the Plaintiff's debt and stated that the Plaintiff owed a debt.

30. The Defendants' conduct violated 15 U.S.C. § 1692b(3) in that Defendants contacted third parties in regards to the Plaintiff's debt on numerous occasions, without being asked to do so.

31. The Defendants' conduct violated 15 U.S.C. § 1692c(a)(3) in that Defendants contacted the Plaintiffs at his place of employment, knowing that the Plaintiff's employer prohibited such communications.

32. The Defendants' conduct violated 15 U.S.C. § 1692c(b) in that Defendants communicated with individuals other than the Plaintiffs, the Plaintiffs' attorney, or a credit bureau.

33. The Defendants' conduct violated 15 U.S.C. § 1692d in that Defendants engaged in behavior the natural consequence of which was to harass, oppress, or abuse the Plaintiffs in connection with the collection of a debt.

34. The Defendants' conduct violated 15 U.S.C. § 1692d(5) in that Defendants caused a phone to ring repeatedly and engaged the Plaintiffs in telephone conversations, with the intent to annoy and harass.

35. The Defendants' conduct violated 15 U.S.C. § 1692f in that Defendants used unfair and unconscionable means to collect a debt.

36. The Defendants' conduct violated 15 U.S.C. § 1692g(a) in that Defendants failed to send Plaintiff an initial letter within five days of its initial contact with Plaintiff as required by law.

37. The foregoing acts and omissions of the Defendants constitute numerous and multiple violations of the FDCPA, including every one of the above-cited provisions.

38. The Plaintiffs are entitled to damages as a result of Defendants' violations.

COUNT II
INVASION OF PRIVACY BY INTRUSION UPON SECLUSION

39. The Plaintiffs incorporate by reference all of the above paragraphs of this Complaint as though fully stated herein.

40. The Restatement of Torts, Second, § 652(b) defines intrusion upon seclusion as, “One who intentionally intrudes...upon the solitude or seclusion of another, or his private affairs or concerns, is subject to liability to the other for invasion of privacy, if the intrusion would be highly offensive to a reasonable person.”

41. Massachusetts further recognizes the Plaintiffs’ right to be free from invasions of privacy, thus Defendant violated Massachusetts state law.

42. The Defendant intentionally intruded upon Plaintiffs’ right to privacy by continually harassing the Plaintiffs with numerous calls.

43. The telephone calls made by Defendant to the Plaintiffs were so persistent and repeated with such frequency as to be considered, “hounding the Plaintiffs,” and, “a substantial burden to her existence,” thus satisfying the Restatement of Torts, Second, § 652(b) requirement for an invasion of privacy.

44. The conduct of the Defendant in engaging in the illegal collection activities resulted in multiple invasions of privacy in such a way as would be considered highly offensive to a reasonable person.

45. As a result of the intrusions and invasions, the Plaintiffs are entitled to actual damages in an amount to be determined at trial from Defendant.

46. All acts of Defendant and its agents were committed with malice, intent, wantonness, and recklessness, and as such, Defendant is subject to punitive damages.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs pray that judgment be entered against Defendants:

1. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against Defendants;
2. Statutory damages of \$1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A) against Defendants;
3. Costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3) against Defendants;
4. Actual damages from Defendants for the all damages including emotional distress suffered as a result of the intentional, reckless, and/or negligent FDCPA violations and intentional, reckless, and/or negligent invasions of privacy in an amount to be determined at trial for the Plaintiffs;
5. Punitive damages; and
6. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: July 24, 2012

Respectfully submitted,

By /s/ Sergei Lemberg

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